

Request for Council Action

Originator Port Authority	Item BCS/Lennar Secondary Developer Agreement Amendment
Agenda Section	Date 5/27/2015

Description

The City Council approved a series of agreements with McGough Development and Lennar Multifamily Communities (Lennar) on December 10, 2014. The documents set the stage for 2015 construction of the 395 unit residential development, publicly-funded parking ramp (Ramp), and adjacent public street, pedestrian and utility infrastructure (Public Improvements). The \$6.8 million Ramp is funded through Port-issued TIF revenue bonds, the final documents for the bonds will come before the board at a future meeting. The Public Improvements were bid on March 6, 2015 and have a 90-day window in which the City can award the contract to the lowest responsible bidder (\$1.6 million total project cost). The bidding environment in late-winter and early-spring usually relates to lower construction costs. Since the bids received for the Public Improvement are favorable, it is the interest of the parties to award the contract. However, since the Lennar project has not closed financing and started construction, the City should not shoulder the risk of the cost of the Public Improvements in the event the Lennar project does not close.

Lennar originally anticipated closing financing and starting construction on the project in May 2015, but the project is now scheduled to close in June. The redevelopment contract with Lennar states that they have until September 30, 2015 to start construction on the project. If they do not, the Port repurchases the land from Lennar for \$1.123 million and the project unwinds.

To provide security so that the Public Improvement project can be awarded, Lennar has agreed to pay for the Public Improvement costs incurred by the City if the Lennar project does not close. The payment would be deducted from the \$1.123 million the Port would pay to Lennar if the deal unwinds on September 30, 2015.

The Public Improvements are phased to be constructed in two years, 2015-2016. Staff estimates that the Public Improvement project exposure for 2015 could be up to \$762,000. With Lennar committing up to \$1.123 million, this leaves the City/Port with a substantial buffer if the costs of the Public Improvement rise due to not continuing with the 2016 portion of the Public Improvement contract. The risk to the City/Port in this scenario is that there is a contract with a contractor that would have to be renegotiated at the end of 2015 if the Lennar deal fully unwinds on September 30, 2015. The alternative is to rebid the Public Improvements during the summer of 2015, and costs are very likely to be higher. No project is without risk, but staff believes the risks are manageable, especially given the buffer mentioned above.

Requested Action

Staff recommends that the Port Authority and City Council adopt the attached resolutions approving the attached Secondary Developer Agreement Amendment.

Attachments:

Secondary Developer Agreement Amendment
CC Resolution Approving Amendment
Port Resolution Approving Amendment